

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES MEAD, III,

Plaintiff,

Case No. 1:06-CV-127

v

Hon. Gordon J. Quist

SCOTTY MURELL, et al,

Defendants.

ORDER

Pending before the court is the Defendants' Motion for Sanctions (docket no. 48).

For the reasons more fully stated on the record at the hearing held on this motion, the court finds plaintiff has been deficient in filing complete and timely responses to defendants' interrogatories and requests for production documents. Among other things, plaintiff failed to produce in its answers material pertaining to his insurance company, GEICO, and its termination of his benefits, including IME's done by GEICO. Plaintiff also failed to preserve this information when it was in his possession previously.

Even viewed in conjunction with other procedural deficiencies during the pretrial proceedings in this case, the court does not find that plaintiff's complaint is subject to dismissal for those shortcomings. Rather, lesser sanctions fashioned to address the present shortcomings in plaintiff's discovery production are appropriate.

Accordingly, defendants' motion for sanctions is GRANTED in part as follows:

1. Discovery will be reopened to permit defendants to re-depose plaintiff on all matters pertaining to his GEICO insurance coverage, and to depose the doctor(s) who conducted

and/or evaluated the IME's which were done at the instigation of GEICO, and defendants shall have further discovery pertaining to any relevant matter which comes to light during the depositions of the aforesaid individuals. All deposition costs for the redeposition of plaintiff, and the redeposition (not original deposition) of any other individual taken as a result of this order shall be borne by plaintiff. All depositions shall be taken within 45 days of the date of this order, unless additional time is granted by the court.

2. Defendants shall have 14 days after the last deposition to file an amended brief in support of their motion for summary judgment for the limited purpose of including new facts and/or arguments arising from material obtained from GEICO or as a result of the discovery authorized by this order. Plaintiff shall have 14 days in which to file a response to any amendment by defendants.

3. Defendants are entitled to attorneys fees for prevailing on this motion, and the parties shall agree to an appropriate amount within 10 days of the date of this order. Failing that, defendant shall have 14 days thereafter in which to file an affidavit and any other documents in support of whatever amount of attorneys fees they request. Plaintiff shall have 14 days after receipt of defendants' affidavit to file an appropriate response. The court will decide the issue of attorneys fees on the papers filed but reserves the right to hold a further hearing on the issue of attorneys fees if necessary.

IT IS SO ORDERED.

Entered: July 26, 2007

/s/ Hugh W. Brenneman, Jr.
HUGH W. BRENNEMAN, JR.
United States Magistrate Judge